

REMARKS/ARGUMENTS

The Office Action contained one rejection of the claims under 35 USC §102 and one rejection of the claims under 35 USC §103. Each of the rejections will be responded to below.

a. Response to §102 Rejection

Claims 1, 18 and 32-33 were rejected under 35 USC §102(b) as being anticipated by Briggs (U.S. 3,114,179). For the reasons explained below, Applicant respectfully traverses the rejection and requests that it be reconsidered and withdrawn.

Applicant's independent claims 1 and 18 each require that the spacer frame tubing have "first and second sidewall portions for engaging inner surfaces of said glass panes" and "a transverse wall portion interconnecting said wall portions so as to support said sidewall portions in spaced-apart relationship".

Briggs does not show spacer frame tubing meeting these requirements. In the Office Action, the Examiner asserted that Briggs teaches "a spacer frame 12 having first, second sidewall portions 14, 16 [and] a flexible transverse wall portion 22 interconnecting sidewall portions, 14, 16." Applicant respectfully disagrees. The frame 12 that was shown by Briggs is not spacer frame tubing as required by Applicant's claims. Instead, the "closure frame" 12 is a clamp that tightly grips against the outer surfaces of the panes (col. 2, lines 64-65). The "sidewall portions 14, 16" consequently are not "for engaging inner surfaces of said glass panes", as is expressly required by Applicant's independent claims. Moreover, the "flexible transverse wall portion 22" does not support the sidewall portions in spaced-apart relationship, as is also required by Applicant's claims, but instead draws them together so as to clamp the sidewall portions against the outside surfaces of the panes.

Briggs does, in fact, show a form of spacer frame tubing, but it is not the clamp-on frame 12 to which the Examiner has referred. Instead, it is the "closure unit 24" having the "dessicant holder 34" (see FIG. 3) that fits between the panes and holds them apart. However, this is an ordinary tubular metal spacer, and has no provisions for permitting the sidewall portions thereof to move alternately towards and away from one another as required by Applicants claims.

In short, the structure 12 that has been cited in Briggs is not spacer frame tubing as required by Applicant's claims, but is instead a clamp-on external frame. As a result, the sidewall portions 14, 16 thereof are not for engaging the inner surfaces of the glass panes, as is required by Applicant's claims, but are instead for pressing against the outer surfaces of the panes.

In order to anticipate a claim under 35 USC §102, the reference must show every element thereof (MPEP 2131). For the reasons explained above, the Briggs reference does not show spacer frame tubing having first and second sidewall portions for engaging inner surfaces of the glass panes, and a transverse wall portion that interconnects the sidewall portions so as to support within a spaced apart relationship, and that is configured to permit the sidewall portions to move alternately towards and away from one another, as is required by Applicants independent claims 1 and 18. Applicant therefore submits that Briggs fails to anticipate these claims and dependent claims 32-33 under 35 USC §102, and respectfully requests that the rejection be reconsidered and withdrawn.

b. Response to §103 Rejections

Claim 31 was rejected under 35 USC §103(a) as being unpatentable over Briggs in view of Kessler (U.S. 4,223,213). Applicant again respectfully traverses the rejection.

Claim 31 depends from independent claim 18 and therefore includes the limitations thereof, including those discussed above, i.e., spacer frame tubing having first and second sidewall portions for engaging inner surfaces of the glass panes, and a transverse wall portion interconnecting the sidewall portions so as to support the sidewall portions in spaced apart relationship, the transverse wall portion being configured to permit the sidewall portions to move alternately towards and away from one another. For the reasons also explained above, the Briggs reference does not show spacer frame tubing meeting these requirements. The secondary reference (Kessler) was cited only as showing the use of roll-formed aluminum, and adds nothing that would teach or suggest the required limitations.

In order to establish a *prima facie* case of obviousness, the combined references must teach or suggest all of the limitations of the claim (MPEP 2143). For the reasons explained above, Briggs and Kessler taken either alone or in combination, fail to teach all of the limitations

of claim 31. Applicant therefore respectfully submits that a *prima facie* case of obviousness has not been established with respect to claim 31, and respectfully requests that the rejection under 35 USC §103 be reconsidered and withdrawn.

c. Conclusion

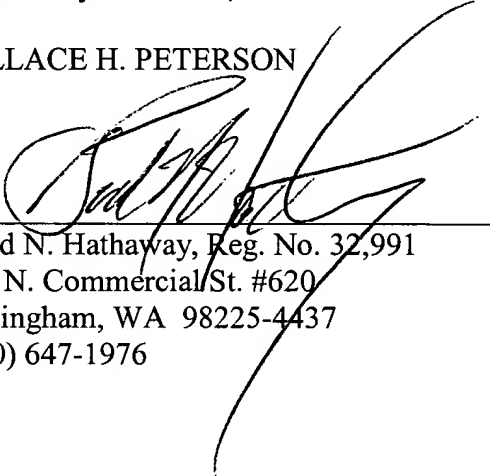
Applicant respectfully requests reconsideration of the present application in view of the remarks set forth herein. It is believed that the claims are now in condition for allowance. If there is any matter that can be expedited by consultation with Applicant's attorney, such would be welcome. Applicant's attorney can normally be reached at the telephone number given below.

Signed at Bellingham, County of Whatcom, State of Washington this 21st day of November 2003.

Respectfully submitted,

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